

Message Text

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DRAFTED BY EB/CSB/BP:WALTER B. LOCKWOOD:BT
APPROVED BY EB/CSB/BP:WALTER B. LOCKWOOD, JR.
L/EB:JCROOK
EUR/NE:KSHIRLEY (SUBSTANCE)
JUSTICE:DGOLDSWEIG

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FM SECSTATE WASHDC
TO AMEMBASSY BRUSSELS
INFO USMISSION OECD PARIS

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E.O. 11652: N/A

TAGS: ETRD, BE

SUBJECT: ANTITRUST: FOREIGN OCEAN CARRIERS

REF: BRUSSELS 01397

1. REFTEL FORWARDS REQUEST OF BELGIAN ADMINISTRATION OF MARITIME AFFAIRS AND INLAND NAVIGATION FOR CERTAIN INFORMATION RELATED TO THE ANTITRUST INVESTIGATION BY THE DEPARTMENT OF JUSTICE INTO THE CONDUCT OF CERTAIN U.S. AND FOREIGN OCEAN CARRIERS AS IT RELATES TO THE IMPORTATION OF ALCOHOLIC BEVERAGES FROM EUROPE INTO THE U.S. JUSTICE HAS PROVIDED THE FOLLOWING REPORT:

"DART CONTAINERLINE COMPANY, LTD., AND OTHER OCEAN CARRIERS ARE MEMBERS OF CONFERENCES ENGAGED IN TRADE BETWEEN EUROPE AND THE UNITED STATES. INFORMATION WAS RECEIVED BY THE U.S. DEPARTMENT OF JUSTICE THAT AGREEMENTS BETWEEN OCEAN CONFERENCE CARRIERS (INCLUDING DART CONTAIN-

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ERLINE COMPANY, LTD.), AND OTHERS, INCLUDING IMPORTERS,

MIGHT EXIST WHICH WOULD BE IN VIOLATION OF THE U.S. ANTI-TRUST LAWS. THE VIOLATIONS COULD INCLUDE THE FIXING OF RATES, GROUP BOYCOTTS, ALLOCATION OF MARKETS AND MONOPOLIZATION OF THE TRADE. FURTHER, IT WAS UNDERSTOOD THAT THESE AGREEMENTS WERE NOT FILED WITH THE U.S. FEDERAL MARITIME COMMISSION AND, HENCE, HAD NOT RECEIVED THE REQUIRED SCRUTINY AND APPROVAL TO EXEMPT THEM FROM THE U.S. ANTI-TRUST LAWS.

"PURSUANT TO THIS INFORMATION, THE U.S. DEPARTMENT OF JUSTICE IS CONDUCTING AN INVESTIGATION WHICH HAS INCLUDED THE ISSUANCE OF A CIVIL INVESTIGATIVE DEMAND TO DART CONTAINERLINE COMPANY, LTD. THE CIVIL INVESTIGATIVE DEMAND FOCUSES ON THE OCEAN TRANSPORTATION OF ALCOHOLIC BEVERAGES, I.E., LIQUOR, WINE, BEER, ETC., FROM EUROPE, INCLUDING THE UNITED KINGDOM AND EIRE, TO UNITED STATES' PORTS. THE NATURE OF THIS PARTICULAR TRADE IS SUCH THAT MOST, IF NOT ALL, OF THE RELEVANT ACTIVITIES UNDER INVESTIGATION OCCURRED WITHIN THE UNITED STATES. DOCUMENTS OR TRUE ATTESTED COPIES PRODUCED TO THE U. S. DEPARTMENT OF JUSTICE PURSUANT TO THE CIVIL INVESTIGATIVE DEMAND WHILE IN THE POSSESSION OF THE DEPARTMENT WILL NOT BE AVAILABLE FOR EXAMINATION BY NON-DEPARTMENT PERSONNEL WITHOUT THE CONSENT OF THE DART CONTAINERLINE COMPANY, LTD.

"THE EMPHASIS OF THE DOCUMENT REQUEST SERVED UPON DART CONTAINERLINE COMPANY, LTD., CONCERNS AGREEMENTS BETWEEN ASSOCIATIONS OF IMPORTERS AND GROUPS OF OCEAN CARRIERS. ALSO SOUGHT ARE DOCUMENTS WITH RESPECT TO ANY AGREEMENTS AMONG CONFERENCE CARRIERS WITH REGARD TO NON-CONFERENCE CARRIERS AND ANY AGREEMENTS BETWEEN CONFERENCE CARRIERS AND NON-CONFERENCE CARRIERS. ALL DOCUMENTS, OF COURSE, ARE REQUESTED ONLY SO FAR AS THEY RELATE TO AGREEMENTS AFFECTING THE OCEAN TRANSPORTATION OF ALCOHOLIC BEVERAGES FROM EUROPE TO UNITED STATES' PORTS.

"IT IS IMPOSSIBLE TO SAY AT THIS TIME WHAT ACTIONS, IF ANY, WILL BE ULTIMATELY TAKEN BY THE U. S. DEPARTMENT OF JUSTICE WITH REGARD TO DART CONTAINERLINE COMPANY, LTD. WE ARE INFORMED BY THE DEPARTMENT OF JUSTICE THAT THIS UNCLASSIFIED

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INQUIRY IS IN ITS EARLY STAGES AND THAT NO DECISION WHATSOEVER HAS BEEN MADE UP TO THIS POINT TO SEEK PROSECUTION OF DART CONTAINERLINE COMPANY, LTD., FOR VIOLATIONS OF THE U.S. ANTITRUST LAWS. WHAT IS BEING SOUGHT ARE DOCUMENTS CONTROLLED BY DART CONTAINERLINE COMPANY, LTD., WHICH WILL ENABLE THE U.S. DEPARTMENT OF JUSTICE TO MAKE AN INFORMED DECISION."

2. IT IS HOPED THAT THIS REPORT WILL BE SUFFICIENT TO
PERMIT A DETERMINATION ON THE REQUEST FOR INFORMATION
MADE TO DART CONTAINERLINE. THE EMBASSY IS REQUESTED TO
FORWARD THIS INFO TO APPROPRIATE BELGIAN AUTHORITIES. KISSINGER

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